

**JUDGE CHIN**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
RACHEL ALLEN,

Plaintiff,

v.

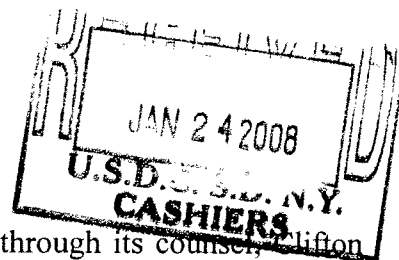
INSTITUTE FOR COMMUNITY  
LIVING,

Defendant.  
-----X

**08 CV 0871**

Civil Action No.

**NOTICE OF REMOVAL OF ACTION**



Defendant, Institute For Community Living, by and through its counsel, Clifford Budd & DeMaria, LLP, desiring to remove this civil action from the New York State Supreme Court, New York County to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §1441, hereby submits this Notice of Removal and alleges as follows:

1. The named defendant consents to this action being removed to the United States District Court for the Southern District of New York.
2. The Plaintiff, Rachel Allen, commenced an action by filing a Summons and Complaint in the New York State Supreme Court, New York County. A copy of Plaintiff's Summons and Complaint is attached hereto as **Exhibit A**.
3. The Notice of Removal is being filed within thirty (30) days of the receipt by Defendant of the Summons and Complaint and is timely filed under 28 U.S.C. §1441(b).
4. This is a civil action in which Plaintiff alleges disability discrimination under the Americans with Disabilities Act of 1990 ("ADA").
5. Defendant seeks removal based on 42 U.S.C. §12101, *et seq.* Subject matter jurisdiction is also conferred by 28 U.S.C. §1331.

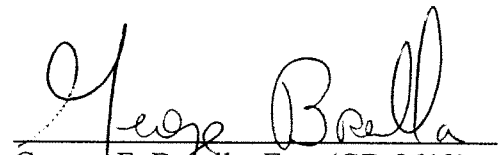
6. This is an action over which the United States District Court has jurisdiction pursuant to 28 U.S.C. §1331. The federal statute under which Plaintiff's claims arise is 42 U.S.C. §12101, *et seq.* Accordingly, this Court has jurisdiction over the matter pursuant to 28 U.S.C. §1331, and this action may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441.

**WHEREFORE**, Defendant, whose attorneys have signed this Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure, pray that this action be removed to the United States District Court for the Southern District of New York.

Date: January 23, 2008  
New York, New York

Respectfully submitted,  
CLIFTON BUDD & DeMARIA, LLP  
Attorneys for Defendant

By:

  
George F. Brenlla, Esq. (GB-9612)  
420 Lexington Avenue  
New York, New York 10170  
(212)687-7410

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
RACHEL ALLEN,

Plaintiffs,

-against-

Index No. 115942-05  
Date Filed: 11-30-07  
Plaintiff designates  
New York  
County as the place of trial

The basis of the venue is  
Defendant's Place of  
Business

INSTITUTE FOR COMMUNITY LIVING,

Defendants

**SUMMONS**

Plaintiff resides at  
175 Saratoga Avenue  
County of Kings

-----X  
To the above named Defendant (s) :

**YOU ARE HEREBY SUMMONED**, to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff (s) Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is completed if this summons is not personally delivered to you within the state of New York) ; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York  
November 29, 2007

Defendant (s) 'address:

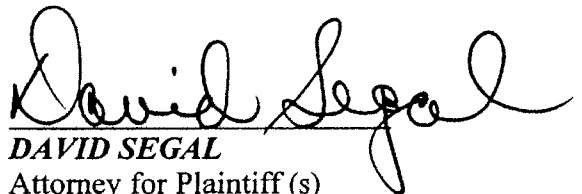
**INSTITUTE FOR COMMUNITY LIVING**

40 Rector Street  
8<sup>th</sup> Floor  
New York, NY 10004

NEW YORK  
COUNTY CLERK'S OFFICE

NOV 30 2007

NOT COMPARED  
WITH COPY FILE

  
**DAVID SEGAL**

Attorney for Plaintiff (s)  
Office & P.O. Address:  
30 Vesey Street  
New York, New York 10007  
Tel. No. : (212) 406 - 9200

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
RACHEL ALLEN,

Plaintiff,

v.

INSTITUTE FOR COMMUNITY LIVING,

Defendant.  
-----X

Plaintiff, by and through her attorney, David Segal, respectfully alleges, upon  
information and belief, as follows:

NATURE OF THE CASE

1. This Complaint is filed by plaintiff, Rachel Allen, an employee of the defendant. She brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.
2. This action seeks declaratory and equitable relief from discrimination in employment against plaintiff.
3. This action is brought pursuant to the Americans with Disabilities Act of 1990.
4. The unlawful employment practices described herein involve defendant's treatment of plaintiff in an inferior manner due to her history of mental illness and then subsequently terminating her employment.

PARTIES

5. That at all times herein mentioned, plaintiff was a resident of the County of Kings, City and State of New York.
6. That at all the times herein mentioned plaintiff suffered from mental illness.

Index No.: 115942-07  
Dated Filed: 11-30-07

7. That at all the times herein mentioned, defendant was a domestic corporation organized and existing under and by virtue of the laws of the State of New York.

8. Defendant, is a private agency subsidized by City, State and Federal funding sources which assists individuals enrolled in its programs to recover from mental illness and substance abuse.

9. Defendant has its headquarters in the County, City and State of New York.

#### FACTS

10. Plaintiff was enrolled in the defendant's program for treatment of drug abuse, mental illness and homelessness from 1999 to 2003.

11. Plaintiff became a supervisory peer advocate in the defendant's community and was subsequently hired as an assistant counselor in 2004.

12. Plaintiff's work history with defendant was always satisfactory.

13. On January 29, 2007 the plaintiff was terminated by defendant for insubordination in the workplace on two (2) occasions.

14. Defendant unlawfully terminated plaintiff in violation of the Americans with Disabilities Act of 1990.

15. Plaintiff did not and never acted in an improper manner.

16. Plaintiff was terminated due to her medical condition.

17. Plaintiff has been unable to secure new employment since her unlawful termination by defendant.

#### EXHAUSTION OF REMEDIES

18. Plaintiff filed a complaint against defendant with the U.S. Equal Employment Opportunity Commission (EEOC).

19. The EEOC investigated plaintiff's complaint.

20. On September 5, 2007 the EEOC dismissed plaintiff's charges against defendant.

#### DAMAGES

21. The amount of damages sought exceeds the jurisdictional limits of all courts that would otherwise have jurisdiction.

22. The plaintiff has suffered substantial damages.

#### RELIEF SOUGHT

Wherefore, plaintiff demands judgment against defendant as follows:

A. Enter a declaratory judgment that defendant's termination of plaintiff was in violation of the Americans with Disabilities Act of 1990 and directing defendant to rehire plaintiff.

B. Enter a judgment against defendant and in favor of plaintiff in an amount equal to her back pay.

C. Enter a judgment against defendant for out of pocket expenses incurred by plaintiff on account of defendant's unlawful discriminatory practices as aforesaid.

D. Enter a judgment against defendant and in favor of plaintiff for reasonable attorney fees and costs.

E. Enter a judgment for compensatory damages.

F. Enter a judgment for punitive damages.

G. For such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
November 29, 2007

*David Segal*  
David Segal  
Attorney for Plaintiff  
Office & P.O. Address:  
30 Vesey Street, Suite 900  
New York, N.Y. 10007  
(212) 406-9200

**COMPLETE  
THIS STUB**

Endorse This INDEX NUMBER ON All  
Papers and advise your adversary of  
the number assigned. Sec. 202.5,  
Uniform Rules Of Trial Courts

DO NOT DETACH

Title of Action or Proceeding to be TYPED or PRINTED by applicant  
SUPREME COURT, NEW YORK COUNTY

*Allen*  
*I.C.L.*

**INDEX NUMBER FEE  
\$210.00**

07115942

RECEIPT  
NEW YORK COUNTY CLERK  
60 CENTRE STREET  
NEW YORK, NY 10007  
RL41

DEPARTMENT	AMOUNT
1 GEN	165.00
7 SURCHARGE	45.00
<b>TOTAL</b>	<b>210.00</b>
<b>CHECK</b>	<b>210.00</b>

CONS	CASHIER	DATE	TIME	RECN
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